

BUILDING SOCIETIES.
EXEMPTION FROM STAMP DUTY.

IN a former number* was noticed, at some length, the very important case of Walker v. Giles, decided in the Court of Common Pleas, in which it was held that mortgages and other securities given to the trustees of building societies, established under the Building Societies Act (6 & 7 Wm. IV., c. 32), are exempt from stamp duty.

Perhaps some of the readers of this journal can recall to mind that we then took upon ourselves to declare that this was sound law, and that a stamp duty on such mortgages would be entailing on the mortgagor an unnecessary expense. It was only, however, after giving much attention to the case and the construction of the Acts upon which the judgment was based that we ventured to arrive at this conclusion, knowing, as we then did, that many practitioners had objected to dispense with the stamp duty, as they doubted the correctness of the decision; and also that a legal contemporary† went so far as to say, "We feel it to be our duty to warn the trustees and advisers of building societies against acting on that decision."

We were right. The Court of Common Pleas have reconsidered and affirmed that decision in the case of Barnard and Others v. Pilsworth (14 Law T. 132). In this case the plaintiffs were the trustees of the Amicable Building Society, and the defendant rented his house of one Hinton, who had mortgaged the house to the plaintiffs as trustees of the building society. This action was brought to recover a year's rent, and was tried before Wilde, C.J., at the sittings in London after last term. The mortgage deed had no stamp upon it, and it was objected to as inadmissible for want of a stamp. The objection was overruled, and the jury gave the plaintiffs a verdict for the year's rent.

Channel, Serjt., moved to set aside the verdict, and enter it for the defendant, on the ground that the mortgage deed required a stamp.

We have seen that the practice of having these mortgage deeds stamped has been still adhered to, from a supposition that the question had not been finally settled in Walker v. Giles. We find this opinion to be at once gratuitous and erroneous; for after the argument of the learned serjeant, Maule, J., said,—"I believe there have been some observations in a legal journal‡ reflecting on that decision (Walker v. Giles), on the presumption that the whole of the Friendly Societies Acts, 10 Geo. IV., c. 56, and 5 & 6 Wm. IV., c. 40, is not incorporated in the Building Societies Acts, but only so much as relates to the making and altering of the rules. I own these observations did not convince me our decision was wrong. Our decision is a recent one, and we meant to decide that the whole of the Friendly Societies Acts in question were incorporated, so far as they were applicable to building societies, and that building societies' mortgages were exempt from stamp duty."

The rest of the court concurring, rule refused.

Mortgages and other securities given to building societies are exempt from stamp duty, and on this subject there can no longer rest the shadow of a doubt. The majority of these mortgagors have acquired their savings by too much labour to afford to fritter any portion of them away in unnecessary legal expenses; and if, therefore, they continue to be charged stamp duty (and these mortgages belong to that class which is liable to the highest rate), their solicitors should at once refuse to pay it.

We have heard nothing more of an Act limiting the present exemption from stamp duties in these cases. We are strongly inclined to believe that no such statute is really contemplated. It is only necessary to refer to the preamble of the Building Societies Act to see that its object was to afford encouragement and protection to these associations; surely, then, the legislature would not act so inconsistently as to grant a reasonable privilege and then abolish it by a subsequent enactment.

Inner Temple.

W. L. T.

* THE BUILDER, August 18, 1849.

† The Jurist, July 14, 1849.

‡ The Jurist, July 14, 1849.

ECCLESIASTICAL DILAPIDATIONS.

THE discrepancy lately mentioned in the valuation of the three persons employed to value the chancel dilapidations in central Norfolk, is one of the most singular circumstances I have ever heard of: apparently two of the three persons must be ignorant of what is, or what is not, a dilapidation. The only points to be settled, beyond substantial repairs, in estimating ecclesiastical dilapidations, are, whether the waste or want of painting, papering, whitewashing, and colouring inside are dilapidations? I will admit that papering is more a matter of ornament and luxury than utility and necessity, but I am of opinion that plain painting is both useful and necessary, as much so as the plastering to walls, and that it is absolutely necessary for the decent accommodation of the new incumbent. If a new parsonage-house is about to be erected, it is a part of the specification that all the wood-work usually painted shall be painted three or more coats in good oil colour; then, I ask, why introduce this clause if it be not both useful and necessary? It is true that in that celebrated case of "Wise v. Metcalfe," it is stated that "painting, whitewashing, and such part of the papering as is not required to preserve wood from decay, by exposure to the external air, are rather matters of ornament and luxury than utility and necessity." I think the master to whom it was referred thought otherwise, and that painting was really necessary; for it will be observed that estimate, including painting, papering, &c., amounted to 399l. 18s. 6d., exclusive of painting, &c., 310l.; and the master allowed 369l. 18s. 6d., being 59l. 18s. 6d. more than the lowest estimate, which makes it evident that he considered painting, whitewashing, and colouring necessary to be done for the decent accommodation of the new comer in, and that papering was more an ornament and luxury than useful and necessary.

With deference I suggest that the profession generally cannot do better than act upon the opinion of Mr. Baron Garrod, given some years ago at the Hertford assizes, where his lordship stated "that it was not sufficient to leave the rectory-house and adjacent premises wind and water tight, but to leave them fit for the immediate occupation of the new comer in, some reference being had to the value of the living," which, I presume, means where the house is of a suitable size for the living.

In answer to a question by the Lord Bishop of Worcester (some years ago), Sir William Scott stated that "there can be no doubt that painting is a dilapidation in such a case; if painting is good, it is not necessary that fresh painting should be applied, but if painting is in such a state that it must be renewed for the decent accommodation of the new comer-in, it must be done at the expense of the last occupier or his representatives."—Yours, &c.,

JNO. JAGUES.

BRITISH ARCHÆOLOGICAL
ASSOCIATION.

At a meeting held November 23rd, Mr. Pettigrew in the chair, Mr. Williams exhibited a drawing of the hypocaust and other Roman remains, at Cirencester.—Mr. Purland exhibited a collection of interesting bronze Roman antiquities from Reculver, belonging to Mr. F. Fullinham.

Mr. Keate read some remarks on drawings, made by his son, of the remains of a large building at Verona, which he supposed was a Naumachia, or place for exhibiting aquatic fights and games, the savage diversions of tyrant emperors and a brutal mob. Although there were as many as six of these buildings in Rome, erected by various emperors, he believed that but few remains of them were now to be found. These interesting excavations had been carried on principally by one, spirited though not rich individual.

Dr. Bell read a paper on the two-faced figure of Janus, on a British coin. He first shewed the superior position Janus held in the religions of Italy, before the intrusions of Homeric deities and Grecian myths. Also from the conformity of the derivations of the name Janus from *Janua* and *Thor*, signifying even in modern German a *gate*, the parent of our English word *door*, he inferred the identity of both. *Thor*, however, must be the most

ancient denomination from its meaning, *he of yore*, or in the more emphatic phraseology of Scripture, the "Ancient of days." The figure most probably took its form from a proprietor fixing a pillar or post to mark his boundary, and his neighbour placing a similar one at its back. From the sacredness with which property was regarded, these posts became gods, as *Termini* and *Hermes*; and increasing veneration, and the inborn æsthetic feelings of Italy, gradually fashioned these into the human face divine, and a cross piece made them real *Thors* or *gates*. This would account for the sanctity of lintels and entrance posts, subsequently transferred to their representatives, the *strands*, in all ages. The fact was adduced, that the colony which settled Iceland took the door-posts of their temple from Norway, and when approaching land threw them overboard, that they might learn from augury of these deities the proper place to disembark, and found a city where they drifted on shore. Places are but smaller and more ornamented posts, and the wand of ceremony or magic, though in German it now signifies *wall*, bears evidence that it was brought over when walls, like those of Greenstead Church, Essex, were built of posts. One of the circles of Stonehenge consists of trigliths—what are these but an aggregation of *Thors* or *Januses*? where their position and repetition made the holy most holy.

NOTES IN THE PROVINCES.

THE tenders for improvement of the Ipswich Corn Exchange have been opened, and Mr. W. Ribban's, at 1,070*l.*, the lowest, accepted. The building will have a stone portico, of the Corinthian order, fronting the Corn-hill. The interior will consist of a room 66 feet by 78 feet, and 22 feet high, with a lantern in the centre. It will make a public hall for the use of the town, as also for scientific lectures, concerts, &c., &c. The building will be erected under the superintendence of Mr. Woolnough, of Ipswich, architect.—The Southampton council have determined to construct a new gaol rather than enlarge their old one, and have given a committee authority to advertise for a site. The council have been compelled to this course unwillingly by the stringency of the law and the fear of the loss of Government countenance, and expense in transferring prisoners to fitting accommodation elsewhere.—In course of the discussion on the above question, one of the committee stated that from information received from the governor of the county prison of St. Augustine's, near Canterbury, to which a new wing has been added, it appeared that the Government estimate of the cost of 70*l.* to 80*l.* per cell, as a separate part of the building, or 130*l.* to 150*l.*, including the cost of chapel, kitchen, and all necessary erections, seemed to be borne out by the results of the contract of St. Augustine's gaol. From the information furnished, he found that the total amount of the contract was—

Bricklayers', carpenters', slaters', and masons' work	£2,250
Plumbers' ditto	468
Smiths' ditto	530
	3,248
Warming and ventilating apparatus	217
	£3,465

The new building was an additional wing within the boundary wall of the prison, containing 40 cells, and the cost was 87*l.* per cell. The cells were 13 feet long, 7 feet wide, and 10 feet in height. The thickness between the cells was 14 inches; the outer wall 1 foot 10 inches, and 2 feet 3 inches at bottom; the width of gallery, 12 feet; size inside the walls, 59 feet 6 inches by 38 feet. The 40 cells are in three stories, besides underground offices.—The barracks at the Portland convict establishment are now almost completed, as are the arrangements for the speedy transit of the breakwater materials from the quarries adjoining, so that a large number of convicts will shortly be employed in the construction.—A subscription of 30,000*l.* has been opened with sums amounting to 8,000*l.*, for the erection and establishment of a new college at Oxford for poor scholars.—The Salisbury Gas Company